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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re the Marriage of FARIDEH  
BARARPOUR and IMAN HATAMI.

H027460  
(Santa Clara County  
Super. Ct. No. FL100057)

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FARIDEH BARARPOUR,

Respondent,

v.

IMAN HATAMI,

Appellant.

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This appeal is one in a number of appeals brought by appellant Iman Hatami in the course of his dissolution action. This pro per appeal arises out of an order by the trial court appointing a special master for the purpose of holding appellant's passport. Mr. Hatami claims that the trial court abused its discretion in making this order. The respondent, Ms. Bararpour has not filed a response brief. Finding that Mr. Bararpour has failed to show that the trial court abused its discretion, we affirm the order.

## FACTUAL AND PROCEDURAL BACKGROUND

At the outset of the dissolution action, both parties were ordered to relinquish their passports until further court order.<sup>1</sup> For reasons not immediately apparent from the record submitted, the issue of holding Mr. Hatami's passport resurfaced on January 6, 2004, when Judge Grilli ordered the parties to find a third party to hold Mr. Hatami's passport until the reference to the minor child could be removed there from.<sup>2</sup> On January 28, 2004, Commissioner Jimenez held a case management conference and addressed the outstanding passport issue. Thereafter the commissioner signed an order appointing a special master to hold the Mr. Hatami's passport until further court

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<sup>1</sup> "The parties were married in Iran, pursuant to Iranian law in 1993. The marriage produced one child in 2000. In June 2001, Ms. Bararpour filed for dissolution of the marriage, seeking sole custody and requesting a restraining order. On June 28, 2001, the trial court entered a temporary child support and custody order requiring the parents to share custody and ordering Mr. Hatami to pay child support in the amount of \$663 per month and spousal support in the amount of \$553 per month, as well as 50 percent of the daycare expenses. However, after losing his job, Mr. Hatami moved to modify the original order. On January 30, 2002, at a hearing on his motion, the court reduced the child support to \$171 per month while the issue of temporary spousal support was reserved.

The matter proceeded to trial on November 7, 2002. After hearing evidence and argument on the issues of marital property, child custody and support, the court divided the marital assets and debts, ordered the payment of attorney fees, ordered joint legal custody of the child with primary physical custody to Ms. Bararpour and visitation for Mr. Hatami, denied spousal support and continued the January 30, 2002 child support order, finding that there was no change in circumstances." (*In Re the Marriage of Farideh Barapour and Iman Hatami* (Feb. 25, 2004, H025603) [nonpub. opn.] fn. omitted.)

<sup>2</sup> There is a reference in the reporter's transcript to a Motion for Instructions filed by respondent alleging that appellant is a flight risk, and it appears that the trial court may have been addressing that motion when is ordered the parties to find someone to hold appellant's passport. However, no motion papers were included in the Appendix filed by the appellant.

order and to “determine whether all proper procedures and safeguards have been put in place to prevent Respondent from removing the minor child from the country.”

### **DISCUSSION**

On appeal, Mr. Hatami claims that the trial court abused its discretion in appointing the special master. An appellant must affirmatively show error. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) To do so, he must provide a sufficient record, make appropriate reference to the record and cite authority to support his contentions. Mr. Hatami fails on all three grounds. He fails to provide an adequate record by not including the motion which resulted in the order subject of this appeal. In the face of an inadequate record on appeal, we are unable “to pass upon the questions sought to be raised [citation].” (*People v. Apalatequi* (1978) 82 Cal.App.3d 970, 973.)

Mr. Hatami’s brief itself is almost devoid of specific comprehensible and relevant record references to support his contentions. “We are not required to search the record to ascertain whether it contains support for [plaintiff’s] contentions. [Citation.]” (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545.) Where no appropriate record references are made, we may treat a point as waived and pass it without consideration. (*Troensegaard v. Silvercrest Industries, Inc.* (1985) 175 Cal.App.3d 218, 229.) Similarly, Mr. Hatami’s complete failure to cite any case authority to support his contentions allows us to treat his points as waived and pass them without consideration. (*People v. Stanley* (1995) 10 Cal.4th 764, 793.)

We appreciate the effort involved in plaintiff representing himself in these proceedings. But self-representation does not exempt a litigant from the requirements of the law. “A litigant has a right to act as his own attorney [citation] ‘but, in so doing, should be restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts; otherwise, ignorance is unjustly rewarded.’ [Citations.]” (*Lombardi v. Citizens Nat. Trust etc. Bank* (1955) 137 Cal.App.2d 206, 208-209.) A self-representing party is due the same consideration as any other party

from trial and appellate courts, but no greater. (*Monastero v. Los Angeles Transit Co.* (1955) 131 Cal.App.2d 156, 160; *Harding v. Collazo* (1986) 177 Cal.App.3d 1044, 1056.) Courts are not obliged to act as counsel for the self-representing party, though we should guard against inadvertence causing a miscarriage of justice. (*Lombardi v. Citizens Nat. Trust etc. Bank, supra*, 137 Cal.App.2d at pp. 209-211; *Taylor v. Bell* (1971) 21 Cal.App.3d 1002, 1008; *Harding v. Collazo, supra*, 177 Cal.App.3d at p. 1055.) Having failed to provide this court with a complete record on appeal or with citations to the record or authority, we are neither obligated nor inclined to consider the merits of each of Mr. Hatami's claims independently.

Even if we were to consider Mr. Hatami's claims on appeal, there is nothing in the record to indicate that the trial court abused its discretion in any way. Mr. Hatami claims the trial court abused its discretion by signing an order outside the parties' presence and only after private consultation between Judge Grilli and Commissioner Jimenez, that the court refused to consider his proposed order; and that the order appointing the special master should have required both Mr. Hatami's and Ms. Bararpour's passports held, not just Mr. Hatami's. There is no support for these contentions in either the record or the law.

Trial judges routinely sign orders after hearing outside the presence of the parties and there is nothing in the record to indicate that the trial court failed to consider Mr. Hatami's proposed order after hearing. Both proposed orders are part of the record and the court is entitled to select the order it feels most accurately reflects the court's decision. There is no support in the record that the trial court did anything other than that here.

Nor is there any indication in the record that Judge Grilli and Commissioner Jimenez had any conference about this case, much less an improper one. At the January 6, 2004 hearing, Judge Grilli determined that a special master was needed to hold Mr. Hatami's passport. She ordered the parties to identify a special master and present

the name to the commissioner for appointment. At the hearing, Judge Grilli indicated that the commissioner could phone her the day of the settlement conference to confirm any details about the appointment. At the case management conference, both parties appeared and stated their positions on the record. Even though Judge Grilli had already ordered that a special master would be appointed, leaving only a name to be selected, at the conference Mr. Hatami once again objected to any appointment. Notably, Mr. Hatami did not object to the specific individual proposed by the Ms. Bararpour.

Having been charged only with the ministerial task of naming a specific individual as special master, the commissioner heard Mr. Hatami's objection, stated that she believed that Mr. Hatami had already made such an objections to Judge Grilli, but also stated that she would discuss the matter with Judge Grilli. Whether or not, she in fact did discuss the matter with Judge Grilli is not part of the record on appeal and is irrelevant in any case. Based on Judge Grilli's January 15, 2004 order, the appointment of a special master to hold Mr. Hatami's passport had already been ordered. The only issue regarding the passport before the commissioner was *who* the special master was to be—not whether one should be appointed and not whether he would hold just Mr. Hatami's passport or both passports. Since Ms. Bararpour presented an individual for appointment and Mr. Hatami did not object to that named individual, any objection to the commissioner's order, which is the subject of this appeal, is waived.

Any objection to the scope of Judge Grilli's January 15, 2004 findings and order after hearing, including that she ordered only Mr. Hatami's passport be held and not Ms. Bararpour's is outside the scope of this appeal which is solely an appeal from the commissioner's March 22, 2004 "Order Re: Passport."<sup>3</sup>

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<sup>3</sup> Mr. Hatami's contention that the court abused its discretion when it order him to pay \$7500 in attorney fees also exceeds the scope of this appeal. That order is not on appeal here and is not part of the record. That order is currently the subject of another

Even if the question were not outside the scope of this appeal, we see no request by Mr. Hatami in the record for the court to order that both passports be held. The motion before the court, as we can best determine from this incomplete record, was based on Mr. Hatami's flight risk, not Ms. Bararpour's. There does not appear to be a motion to hold Ms. Bararpour's passport and we see no objection by Mr. Hatami on that ground. Therefore, that claim is waived on appeal.

**DISPOSITION**

The order appeal from is affirmed.

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RUSHING, P.J.

WE CONCUR:

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PREMO, J.

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ELIA, J.

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appeal filed by appellant in *In Re the Marriage of Barapour and Hatami* (Dec. 29, 2004, H027209) [nonpub. opn.].) Therefore, we will not address it herein.